REMARKS

Applicants respectfully request reconsideration of this application in light of the above amendments and the following remarks that are in response to the final office, mailed July 19, 2010.

Claims Status

Claims 1, 5, 8, 10, 15 and 17 have been amended. Claim 6, 11, 14 and 18 been cancelled, without prejudice. New claims 21-23 have been added. Therefore, claims 1-5, 7-10, 12-13, 15-17 and 19-23 remain pending for examination.

35 U.S.C. §103 Rejection

Claims 1 and 2 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weare, U.S. Patent No. 7,013,238 (*"Weare"*) in view of Shraim, et al., U.S. Publication No. 2007/0299915 (*"Shraim"*) and Gurelli, et al., U.S. Publication No. 2006/0171356 (*"Gurelli"*).

Claim 1, as amended, recites:

A method comprising:

> conducting, by a learning component of a server of a network, different trials of one or more options in different states of a network communication between a client and the server via a protocol of the network communication, wherein each trial is defined by a combination of the one or more options occurring at a particular state of the network communication;

> receiving, by the learning component, performance feedback for the different trials as rewards; and

> utilizing, by the learning component, the different trials and their associated resulting rewards to improve a decision-making policy made by an option negotiation component of the server for negotiation of one or more options, wherein the one or more options defining specifications of the network communication between the server and the client, wherein the decision-making policy is used to choose one or more actions to maximize file transfer performance based on the one or more options as negotiated by the option negotiation component, wherein the option negotiation component to interact with multiple environments and provide a trial option for each of the multiple environments and receive the rewards as the performance feedback.
> (emphasis added)

Applicants respectfully disagree with the Examiner's characterization of the references and the pending claims and maintain their previous objections; nevertheless, Applicants propose the aforementioned amendments and the following remarks. *Weare* discloses "generating recommendations, which automatically optimiz[e] its parameters (utilizing) by using feedback." (Office Action, mailed 04/12/10, pg. 3). However, this portion of *Weare* is not the same as utilizing feedback to improve a decision-making analysis made by an option negotiation component of a server for one or more options that define specifications of a network communication between a server and a client as recited by claim 1., and *Weare* does not provide any discussion of improving decision for option negotiation. Applicants further submit that *Shraim*'s "automatic feedback loop" and *Gurelli*'s "determining data rate using feedback" (see Office Action, mailed 07/19/2010, pg. 3), contrary to the Examiner's allegation, are not the same as "<u>utilizing, by the learning component, the different trials and their associated resulting rewards to improve a decision-making policy made by an option negotiation component of the server for negotiation of one or more options, wherein the one or more options defining specifications of the network communication between the server and the client</u>" as recited by claim 1.

Claim 1, as amended, further recites in pertinent part "<u>wherein the *decision-making policy is used to choose one or more actions* to maximize file transfer performance based on the one or more options as negotiated by the option negotiation component, wherein the *option negotiation component to interact with multiple environments and provide a trial option for each of the multiple environments and receive the rewards as the performance feedback*</u>". (emphasis added). Applicants respectfully submit that *Weare*, *Shramin* and *Gurelli*, neither individually nor when combined, reach or reasonably suggest <u>using decision-</u>

making policy to choose one or more actions to maximize file transfer performance based on the one or more options as negotiated by the option negotiation component and the option negotiation component to interact with multiple environments and provide a trial option for each of the multiple environments and receive the rewards as the performance feedback as recited by claim 1. Accordingly, for at least the reasons set forth above, Applicants respectfully request the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 8 and 15 contain limitations similar to those of claim 1. Accordingly, for at least the reasons set forth above with respect to claim 1, Applicants respectfully request the withdrawal of the rejection of claims 8 and 15 and their dependent claims.

Claims 8, 13, 15 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weare, U.S. Patent No. 7,013,238 ("*Weare*") in view of Shraim, et al., U.S. Publication No. 2007/0299915 ("*Shraim*").

Claims 8 and 15 contain limitations similar to those of claim 1. Accordingly, for at least the reasons set forth above with respect to claim 1, Applicants respectfully request the withdrawal of the rejection of claims 8 and 15 and their dependent claims 13 and 20.

Claims 3 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weare, U.S. Patent No. 7,013,238 ("*Weare*") in view of Shraim, et al., U.S. Publication No. 2007/0299915 ("*Shraim*") and Gurelli, et al., U.S. Publication No. 2006/0171356 ("*Gurelli*") as applied to claims 2 and 13 above, and further in view of Stakutis, et al.,U.S. Pub. No. 2005/0251516 ("*Stakutis*"). Applicant submits that the present claims are patentable over Weare, Shraim and Gurelli in view of Stakutis.

Claim 3 depends from claim 1 and thus contains all the limitations of its base claim. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 3.

Claim 14 has been cancelled, without prejudice. Therefore, Applicants contend that this rejection is moot.

Claims 4-6, 9-11 and 16-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weare, U.S. Patent No. 7,013,238 ("*Weare*") in view of Shraim, et al., U.S. Publication No. 2007/0299915 ("*Shraim*") and Gurelli, et al., U.S. Publication No. 2006/0171356 ("*Gurelli*") as applied to claims 1, 8 and 15 above, and further in view of Young, et al., U.S. Publication No. 2003/0074338 ("*Young*"). Applicant submits that the present claims are patentable over Weare, Shraim and Gurelli in view of Young.

Claims 6, 11 and 18 have been cancelled, without prejudice. Therefore, Applicants contend that this rejection is moot.

Claim 4-5, 9-10 and 16-17 variously depend from one of claims 1, 15 and 20 and thus contain all the limitations of their corresponding base claim. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 4-5, 9-10 and 16-17.

Claims 7, 12 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Weare, U.S. Patent No. 7,013,238 ("*Weare*") in view of Shraim, et al., U.S. Publication No. 2007/0299915 ("*Shraim*") and Gurelli, et al., U.S. Publication No. 2006/0171356 ("*Gurelli*") as applied to claims 1, 8 and 15 above, and further in view of Zhu, et al., U.S. Publication No. 2006/0274899 ("*Zhu*"). Applicant submits that the present claims are patentable over Weare, Shraim and Gurelli in view of Zhu.

Claim 7, 12 and 19 variously depend from one of claims 1, 15 and 20 and thus contain all the limitations of their corresponding base claim. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 7, 12 and 19.

New Claims

New claims 21-23 variously depend from one of claims 1, 15 and 20 and thus contain all the limitations of their corresponding base claim. Accordingly, Applicants respectfully submit that claims 21-23 are allowable over the cited references.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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